

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FAFARD REAL ESTATE &
DEVELOPMENT CORP.

Plaintiff,

vs.

METRO-BOSTON BROADCASTING,
INC.,

Defendant.

NO. 04-11531-RGS

**FAFARD REAL ESTATE & DEVELOPMENT CORP.'S
MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56, plaintiff Fafard Real Estate & Development Corp. ("Fafard") respectfully moves that this Court enter summary judgment in its favor respecting all counts of defendant Metro-Boston Broadcasting, Inc.'s ("Metro-Boston's") Counterclaim against it. As grounds for this Motion, Fafard submits that Metro-Boston asserts three counterclaims against Fafard: abuse of process, intentional interference with advantageous business relations, and a violation of Massachusetts G.L. c. 93A, unfair and deceptive trade practices. Metro-Boston alleges that these three causes of action arise from Fafard's commencement of a breach of contract lawsuit and action for specific performance that Fafard initiated following Metro-Boston's failure to convey real property to Fafard or otherwise satisfy obligations under a purchase and sale agreement. All of the causes of action are flawed for failure to allege essential elements of the respective claims. Consequently, Fafard is entitled to summary judgment with respect to all three counts of Metro-Boston's counterclaim.

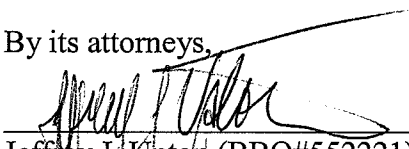
In further support for this motion, Fafard relies upon its Memorandum Of Law In Support Of Motion For Summary Judgment, its Local Rule 56.1 Statement of Material Facts In Support Of Motion For Summary Judgment, and the Affidavit of Richard E. Terrill In Support Of Motion For Summary Judgment, submitted herewith.

WHEREFORE, Fafard respectfully requests that this Court enter summary judgment in its favor as to Metro-Boston's Counterclaims against it for abuse of process, intentional interference with advantageous business relations and breach of Massachusetts G.L. c. 93A, unfair and deceptive trade practices.

Respectfully submitted,

FAFARD REAL ESTATE &
DEVELOPMENT CORP.

By its attorneys,



Jeffrey J. Upton (BBO#552221)
Halye A. Sugarman (BBO#646773)

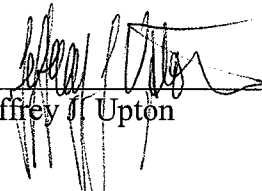
HANIFY & KING
Professional Corporation
One Beacon Street
Boston, MA 02108-3107
(617) 423-0400

DATED: November 22, 2005

CERTIFICATE OF SERVICE

I, Jeffrey J. Upton, certify that on November 22, 2005, I served a copy of the foregoing Fafard Real Estate and Development Corp.'s Motion For Summary Judgment, by hand on:

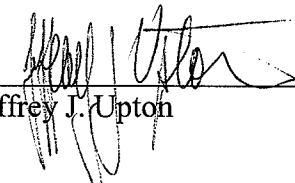
Kenneth Berman, Esq.
Nutter McClennan & Fish, LLP
World Trade Center West
155 Seaport Boulevard
Boston, MA 02110



Jeffrey J. Upton

RULE 7.1 CERTIFICATE

I, Jeffrey J. Upton, certify that I have in good faith conferred with counsel for the Defendant in an attempt to resolve or narrow the issues presented in this Motion.



Jeffrey J. Upton